

Appln No. 10/622,221
Amdt date September 16, 2008
Reply to Office action of March 24, 2008

REMARKS/ARGUMENTS

In Final rejection dated March 24, 2008 and the Advisory action dated July 28, 2008, the Examiner rejected claims 1, 2, 4, 6, 9-17, 19 and 22-29 under 35 U.S.C. §103(a) as allegedly obvious over Cox, et al. (U.S. Patent No. 6,161,543) in view of Whayne, et al. (U.S. Patent No. 6,203,525). The Examiner also rejected claims 30-32 under 35 U.S.C. §103(a) as allegedly obvious over Cox and Whayne in view of Fung, et al. (U.S. Patent No. 6,129,476) and Swanson, et al. (U.S. Patent No. 5,961,513). In maintaining these rejections, the Examiner argues that Cox discloses a heel shaped bend and that non-obviousness cannot be established by "attacking the references individually." Advisory action, page 2. As none of Cox, Fung and Swanson teach or suggest a heel shaped bend as presently claimed, and Applicant maintains that Whayne fails to teach or suggest the heel shaped bend recited in the present claims, Applicant has not attacked the references individually. Rather, Applicant has established that none of the cited references, either by themselves, or in combination, teach or suggest the heel shaped bend recited in the present claims.

In addition, in maintaining that Whayne discloses the heel shaped bend recited in the present claims, the Examiner points generally to Columns 5-23 and Figures 1-39 of Whayne as disclosing the recited angle between the generally straight distal end and the axis of the catheter body. Final rejection, page 4. As noted in Applicant's previous response, Columns 5-23 represent nearly the entire Detailed Description of the Whayne patent, and Figures 1-39 represent nearly all of the drawings of the patent. The Examiner has not pointed to any specific passage in the Whayne reference that discloses the recited feature, as required by 37 CFR §1.104 (*see also* M.P.E.P. §706). That section of the CFR states that "[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the *particular* part relied on *must* be designated as nearly as practicable." (Emphasis added). Here, Cox is a very complex and voluminous reference detailing several different embodiments. Despite the complexity and length of Cox, the Examiner points generally to nearly the entire patent as disclosing the recited angle between the generally straight distal end and the axis of the catheter body. As such an

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angle should be easily identifiable in the reference, if indeed it is described there, 37 CFR §1.104 requires the Examiner to point out the *particular* part of the reference that discloses that angle. As the Examiner has pointed only generally to nearly the entire reference, and has not identified any part of the reference that discloses the claimed angle, Applicant submits that the Examiner's continued rejection is improper.

Indeed, Whayne fails to disclose that the generally straight porous electrode forms the recited angle. In fact, Whayne fails to disclose a heel shaped curve having a generally straight distal end or generally straight porous electrode generally transverse to the axis of the catheter body. In particular, nowhere in Columns 5-23 does Whayne describe a generally straight distal end having any angle relative to an axis of the catheter body. As such, Whayne fails to teach or suggest a generally straight distal end or porous electrode having an angle within the recited range or that is generally transverse to the axis of the catheter body. Rather, Whayne discloses numerous looped structures, as shown in Figures 3A, 4A, 4B, 5-7, 9-11, 12A, 12B, 13, 19, 36 and 39, and described in numerous places throughout Columns 5-23, including for example, column 7, line 57 through column 8, line 44 and column 11, line 41 through column 12, line 53. These looped structures are neither depicted in the drawings or described in the disclosure as including a generally straight distal end or porous electrode forming an angle with an axis of the catheter body within the recited range or that is generally transverse to the axis of the catheter body. Accordingly, independent claims 1 and 17, and all claims dependent therefrom, including claims 2, 4, 6, 9-16, 19 and 22-29, are allowable over Cox and Whayne.

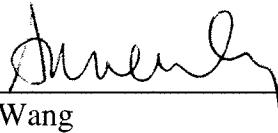
Moreover, although the Examiner argues that Cox discloses a heel shaped bend, Cox fails to disclose the heel shaped bend recited in the present claims. In particular, Cox fails to teach or suggest a *pre-formed* generally heel shaped curve and a generally straight distal end that is generally transverse to the axis of the catheter body and forms an angle with the axis of the catheter body within the claimed range. As Whayne, Fung and Swanson also fail to teach or suggest these features, none of these references, either by themselves or in combination disclose the heel shaped curve recited in the present claims. Accordingly, independent claims 1 and 17,

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and all claims dependent therefrom, including claims 2, 4, 6-16, 19 and 22-32, are allowable over Cox, Whayne, Fung and Swanson.

Claims 1, 2, 4, 9-17, 19 and 22-32 remain pending in this application. In view of the above remarks, Applicant submits that all of pending claims 1, 2, 4, 9-17, 19 and 22-32 are in condition for allowance. Applicant therefore respectfully requests a timely indication of allowance. However, if there are any remaining issues that can be addressed by telephone, Applicant invites the Examiner to contact Applicant's counsel at the number indicated below.

Respectfully submitted,
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